

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN K. WALTON,)	
)	8:06cv375
Plaintiff,)	
)	
vs.)	ORDER to SHOW CAUSE
)	
DOUGLAS COUNTY DEPARTMENT)	
OF CORRECTIONS STAFF, et al.,)	
)	
Defendants.)	

On September 18, 2006 (filing no. 8), I directed the Clerk of Court to send forms to the plaintiff, John K. Walton, a prisoner in the Douglas County Correctional Center ("DCCC"), and I gave Mr. Walton a deadline to complete the forms and send them back to the court so that the U.S. Marshal could serve defendants-Douglas County and the City of Omaha with process on the plaintiff's behalf. The plaintiff has not returned any forms to the court, and the deadline has expired. However on January 19, 2007 (filing no. 11), the plaintiff filed an Amended Complaint adding additional parties. Thus, it appears that the plaintiff has not entirely abandoned this case.

The plaintiff alleges that the defendants inflicted a severe beating on him at the DCCC. Accusations of excessive force visited upon inmates are taken very seriously by the courts. Thus, the court would not be opposed to a reasonable extension of the period for service of process if the plaintiff so wishes. However, first the plaintiff will have to demonstrate the following.

By February 15, 2007, the plaintiff shall file a written Response to Order to Show Cause stating whether he wishes to continue at this time with the above-entitled case or, instead, allow the case to be dismissed without prejudice so that he may bring his claims at some more convenient time. If the plaintiff does wish to continue with the present case, he shall state whether he requires all new summons and USM-285 forms (2 for official-capacity defendants and 5 for individual-capacity defendants). In addition, the plaintiff shall provide an estimate of how long it will take him to complete the forms and send them back to the court.

If the plaintiff does not submit a timely and sufficient Response to this Order to Show Cause, the above-entitled case may be subject, without further notice, to dismissal without prejudice by Chief Judge Joseph F. Bataillon, for failure to prosecute the case with

diligence. See NECivR 41.1, which states in pertinent part: "At any time when it appears that any action is not being prosecuted with reasonable diligence the court may dismiss it for lack of prosecution."

SO ORDERED.

DATED this 26TH day of January, 2007.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge